



## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. OSHA-2017-0014]

#### **Standard on Confined Spaces in Construction; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Confined Spaces in Construction Standard.

**DATES:** Comments must be submitted (postmarked, sent, or received) by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

#### **ADDRESSES:**

*Electronically:* You may submit comments, including attachments, electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Docket:* To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

*Instructions:* All submissions must include the agency name and the OSHA docket number for this *Federal Register* notice (OSHA-2017-0014). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the “Public Participation” heading in the section of this notice titled “**SUPPLEMENTARY INFORMATION.**”

**FOR FURTHER INFORMATION CONTACT:** Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693-2222.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance process to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA’s estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act, or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum

extent feasible unnecessary duplication of effort in obtaining said information (29 U.S.C. 657).

The Standard specifies several information collection requirements. The following sections describe who uses the information collected under each requirement, as well as how they use it. Employers and employees would use these information collection requirements when they identify a confined space at a construction worksite. The purpose of the information would permit employers and employees to systematically evaluate the dangers in confined spaces before entry is attempted, and to ensure that adequate measures have been implemented to make the spaces safe for entry. In addition, the information collection requirements of the Standard specify requirements for developing and maintaining a number of records and other documents. Further, OSHA compliance safety and health officers would need the information to determine, during an inspection, whether employers are complying with the requirements.

### **29 CFR 1926.1203 -- General Requirements**

*29 CFR 1926.1203(b)(1) – Informing employees of permit required confined spaces dangers.*

Paragraph (b)(1) requires employers who identify a permit required confined space (PRCS) to post danger signs or take other equally effective means to inform employees of the existence and location of, and the danger posed by, permit spaces. The note following paragraph (b)(1) provides an example of the content of the optional danger sign.

*29 CFR 1926.1203(b)(2) – Informing controlling contractors and employees' authorized representatives about PRCS hazards.*

Paragraph (b)(2) requires employers to inform, in a timely manner and in a manner other than posting, the employees' authorized representatives and the controlling contractor, of the hazards of confined spaces and the location of those spaces.

*29 CFR 1926.1203(d) – Written permit space program.*

Paragraph (d) requires any employer that has employees who will enter a confined space to have and implement a written permit confined space program and to make the program available for inspection by employees and their representatives. Employers may write detailed permit space programs, while making the entry permits associated with the written programs less specific than the programs, provided the permits address the hazards of the particular space; conversely, the program may be less specific than the entry permit, in which case the employer must draft a detailed permit.

*29 CFR 1926.1203(e)(1)(v) and 1926.1203(e)(2)(ix) – Alternate procedure documentation and availability.*

Paragraph (e)(1) sets forth the six conditions that an employer must meet before the employees can enter a permit space under the alternate procedures specified in paragraph (e)(2).

Paragraph (e)(1)(v) requires employers to document the initial conditions before entry, including the determinations and supporting data required by paragraphs (e)(1)(i) through (e)(1)(iii) of the Standard (develop monitoring<sup>1</sup> and inspection data that supports the demonstrations required by paragraphs (e)(1)(i) and (e)(1)(ii), i.e., the elimination or isolation of physical hazards such that the only hazard in the space is an actual or potential hazardous atmosphere, and that continuous forced-air ventilation is sufficient to maintain the space safe for entry), and make this documentation available to employees who enter the spaces under the alternate procedures, or to their authorized representatives.

In addition, paragraph (e)(2)(ix) requires the employer to verify that the permit space is safe for entry and that the employer took the measures required by paragraph

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<sup>1</sup> In this context, the final rule uses “monitoring” to match the general industry language, and the term encompasses both the initial testing of atmosphere and the subsequent measurements.

(e)(2) (the procedures that employers must follow for permit space entries made under paragraph (e)(1)). The verification must be in the form of a certification that contains the date, the location of the space, and the signature of the certifying individual. The employer must make the alternate procedure documentation of paragraphs (e)(1)(v) and (e)(2)(ix) available to entrants or to their employees' authorized representatives before entry.

*29 CFR 1926.1203(e)(2)(viii) – Written approval for job-made hoisting systems.*

Paragraph (e)(2)(vii) allows for the use of job-made hoisting systems if a registered professional engineer approves these systems for personnel hoisting prior to use in entry operations regulated by § 1926.1203(e). Unlike the proposed rule, the final rule requires an engineer's approval to be in writing to ensure that the specifications and limitations of use are conveyed accurately to the employees implementing the job-made hoist, and that the approval can be verified.

*29 CFR 1926.1203(g)(3) – Certification of former permit spaces as non-permit spaces.*

Paragraph (g)(3) requires an entry employer seeking to reclassify a space from permit to non-permit status to document the basis for determining that it eliminated all permit space hazards through a certification that contains the date, the location of the space, and the signature of the certifying individual. In addition, the employer must make the certification available to each employee entering the space or his or her authorized representative. A reevaluation aimed at reestablishing compliance with paragraph (g) will involve the demonstrations, testing, inspection, and documentation required in paragraphs (g)(1) through (g)(3). The employer must substantiate all determinations so that employers, employees, and the agency have the means necessary to evaluate those determinations and ensure compliance with the conditions that would enable the employer to conduct entry operations using the alternate procedures specified by § 1926.1203 following reclassification.

*29 CFR 1926.1203(h) – Permit Space Entry Communication and Coordination.*

In paragraph (h), OSHA designates the controlling contractor, rather than the host employer, as the information hub for confined spaces information-sharing and coordination because the controlling contractor's function at a construction site makes it better situated than the host employer (assuming that the host employer is not also the controlling contractor) to contribute to and to facilitate a timely and accurate information exchange among all employers who have employees involved in confined space work. On a construction worksite, the controlling contractor has overall authority for the site and is best situated to receive and disseminate information about the previous and current work performed there.

*29 CFR 1926.1203(h)(1) – Pre-entry duties of host employer.*

Paragraph (h)(1) requires the host employer to share with the controlling contractor information that the host has about the location of known permit spaces, the hazards or potential hazards in each space or the reason it is a permit space, and any previous steps that it took, or that other employers took, to protect workers from the hazards in those spaces.

*29 CFR 1926.1203(h)(2) – Pre-entry information-sharing duties of controlling contractors.*

OSHA requires controlling contractors to obtain the information specified in paragraph (h)(1) from the host employer (i.e., the location of permit spaces, the known hazards in those spaces, and measures employed previously to protect employees in that space). Then, before permit space entry, it must relay that information to any entity entering the permit space and to any entity whose activities could foreseeably result in a hazard in the confined space. (See paragraph (h)(2)(ii).) The controlling contractor must also share any other information that it has gathered about the permit space, such as information received from prior entrants

*29 CFR 1926.1203(h)(2)(i) – Controlling contractor obtains information from host employer.*

Paragraph (h)(2)(i) requires the controlling contractor to obtain from the host employer, before permit space entry, available information regarding permit space hazards and previous entry operations.

*29 CFR 1926.1203(h)(2)(ii) – Controlling contractor provides information to entities entering a permit space and other entities at the worksite.*

Paragraph (h)(2)(ii)(A) and (B) require the controlling contractor, before entry operations begin, to share with the entrants, and any other entity at the worksite whose activities could foreseeably result in a hazard in the permit space, the information that the controlling contractor received from the host employer, as well as any additional information the controlling contractor has about the topics listed in paragraphs (h)(1)(i) through (iii) (i.e., the location of permit spaces, the hazards in those spaces, and any previous efforts to address those hazards).

Paragraph (h)(2)(ii)(C) requires the controlling contractor, before entry operations begin, to share with each specified entity any precautions or procedures that the host employer, controlling contractor, or any entry employer implemented earlier for the protection of employees working in permit spaces.

*29 CFR 1203(h)(3) – Pre-entry information-sharing duties of entry employers.*

This provision sets forth the information-exchange requirements for entry employers.

*29 CFR 1926.1203(h)(3)(i).*

Paragraph (h)(3)(i) requires an entry employer to obtain information about the permit space entry operations from the controlling contractor, and works with paragraph (h)(2), which requires the controlling contractor to share information about permit-space entry operations with the entry employer.

*29 CFR 1926.1203(h)(3)(ii).*

Paragraph (h)(3)(ii) requires an entry employer to inform the controlling contractor of the permit space program that the entry employer will follow, including information about any hazards likely to be confronted or created in each permit space. This exchange must take place prior to entry to ensure that the controlling contractor is informed of all the hazards in a timely manner and can take action, if needed, to prevent an accident or injury before entry operations begin.

*29 CFR 1926.1203(h)(4) – Coordination duties of controlling contractors and entry employers.*

Paragraph 1203(h)(4) requires controlling contractors and entry employers to coordinate permit space entry operations in two circumstances: (1) when more than one entity performs entry operations at the same time, or (2) when permit space entry is performed at the same time that any activities that could foreseeably result in a hazard in the permit space are performed.

*29 CFR 1926.1203(h)(5) – Post-entry duties of controlling contractors and entry employers.*

Paragraph (h)(5)(i) requires the controlling contractor to debrief each entity that entered a permit space, at the end of entry operations, about the permit space program followed, and any hazards confronted or created in the permit space(s) during entry operations, and then, as required by paragraph (h)(5)(iii), relay appropriate information to the host employer. Paragraph (h)(5)(ii) requires the entry employer to share the same information with the controlling contractor in a timely manner.

*29 CFR 1926.1203(i) – Absence of a controlling contractor.*

Paragraph (i) provides that, in the event no employer meets the definition of a controlling contractor on a particular worksite, the host employer or other employer that



arranges for permit space entry work must fulfill the information exchange and coordination duties of a controlling contractor.

## **29 CFR 1926.1204 – Permit Required Confined Space Program**

The agency requires each employer with employees who will enter a permit space to have and implement a written permit space program at the construction site (with the exception of ventilation-only entries conducted in accordance with § 1926.1203(e)). Also see discussion of 29 CFR 1926.1203(d) and 29 CFR 1926.1212(a), requirements that pertain to the written program.

As required elements of the written program, OSHA considers all provisions of § 1926.1204 to be information collection requirements: e.g., paragraphs (a) (implementation of the measures necessary to prevent unauthorized entry); (b) (identification and evaluation of the hazards of PRCSSs); (c) (safe permit space entry operations); (d) (equipment); (e) (evaluation of PRCSS conditions during entry operations); (f) (attendant required); (g) (attendant emergency procedures); (h) (designation of entry operation duties); (i) (summoning rescue and emergency services procedures); (j) (system for cancellation of entry permits, including safe termination of entry operations); (k) (entry operation coordination procedures); (l) (entry operation conclusion procedures); (m) (entry operation review); and (n) (permit space program review). In addition, some provisions of § 1926.1204 constitute information collection requirements for reasons other than inclusion in the written program, as described below.

*29 CFR 1926.1204(c), (g), (h), (i), (j), (k) and (l)) – Development of procedures.*

Paragraph 1926.1204(c) requires an employer to develop procedures needed to facilitate safe entry operations into permit spaces. The subparagraphs in (c) provide specific elements of the required procedures that employers must include in the permit program: identifying safe entry conditions that employers must meet to initiate and conduct the entry safely (paragraph (c)(1)); providing each authorized entrant with the

opportunity to observe monitoring or testing (paragraph (c)(2)); isolating the PRCs (paragraph (c)(3)); purging, inerting, flushing, or ventilating the permit space (paragraph (c)(4)); ensuring that monitoring devices will detect an increase in atmospheric hazard levels in the event that the ventilation system malfunctions, and to do so in adequate time for employees to safely exit the space (paragraph (c)(5)); providing barriers to protect entrants from external hazards (paragraph (c)(6)); verifying that conditions are acceptable for entry and preventing employees from entering the permit space with a hazardous atmosphere unless demonstrating that personal protective equipment (PPE) will be effective for each employee (paragraph (c)(7)); and eliminating any conditions that could make it unsafe to remove an entrance cover (paragraph (c)(8)). Before entry is authorized, each entry employer must document the completion of these measures by preparing an entry permit, as required by paragraph 1926.1205(a).

Under paragraphs (g) through (l), entry employers are also required to develop procedures for: having an attendant respond to emergencies affecting multiple permit spaces monitored (paragraph (g)); specifying employees' name, confined space entry roles and duties (paragraph (h)); summoning rescue and emergency services, rescuing entrants from permit spaces, providing necessary emergency services to rescued employees, preventing unauthorized personnel from attempting a rescue (paragraph (i)); cancelling entry permits (paragraph (j)); coordinating entry operations (paragraph (k)); and for terminating an entry permit and entry operations (paragraph (l)).

*29 CFR 1926.1204(c)(3) and 1203(e)(1)(i) – Lockout/Tagout.*

Paragraphs (c)(3) and (e)(1)(i) (for PRCs using alternate procedures) require tagging in accordance with the definition of “isolate” or “isolation” (see paragraph 1202), which requires employers to “lockout or tagout ...all sources of energy.”

*29 CFR 1926.1204(e)(6) – Providing testing and monitoring results to employees.*

Paragraph (e)(6) requires each entry employer to immediately provide the results of any testing conducted in accordance with paragraph 1204 to each authorized entrant or that employee's authorized representative.

*29 CFR 1926.1204(m) – Review of entry operations and revision of procedures when inadequate.*

Paragraph (m) requires each entry employer to review the permit space program whenever the procedures are inadequate, and to revise those procedures when necessary.

*29 CFR 1926.1204(n) – Annual review of written program.*

Paragraph (n) requires each entry employer to review the permit space program at least every year and make revisions to the procedures as necessary. This provision requires an employer to review cancelled permits within one year after each entry.

### **29 CFR 1926.1205 – Permitting Process**

An employer conducting a permit space entry must post an entry permit outside the permit space to document the employer's efforts to identify and control conditions in that permit space. Section 1205 sets forth the required process for establishing entry permits and § 1926.1206 sets forth the required specific information that must be identified on the permit.

*29 CFR 1926.1205(a) – Preparing an entry permit.*

Paragraph (a) requires each entry employer to prepare, prior to entry into a PRCS, an entry permit containing all the information specified in § 1926.1204(c) (practices and procedures for ensuring safe entry).

*29 CFR 1926.1205(b) and 1926.1210(b) – Signing the permit.*

Paragraph (b) requires the entry supervisor to sign the permit before entry begins. Similarly, paragraph 1926.1210(b) requires the entry supervisor to verify that the employer performed all tests specified by the entry permit, and that all procedures and equipment so specified are in place before he or she may sign the permit and allow entry.

The paragraph also specifies that the entry supervisor must verify this information by checking that the corresponding entries made on the permit.

*29 CFR 1926.1205(c) – Posting the permit.*

Paragraph (c) requires an employer to make the completed entry permit available to all authorized entrants, or their authorized representatives, at the time each employee enters the space, by posting it at the entry portal or by any other equally effective means, so that entrants can confirm that pre-entry preparations have been accomplished.

*29 CFR 1926.1205(f) – Retaining the permit.*

Paragraph (f) requires the employer to retain each entry permit for at least 1 year to facilitate the review of the permit required by paragraph 1926.1204(n) of the Standard. Any problems encountered during an entry operation must be noted on the pertinent permit so that appropriate revisions to the permit space program can be made. Employers should list the problems encountered during entry resulting in the cancellation or suspension of a permit on the entry permit.

**29 CFR 1926.1206 – Entry Permit**

An employer conducting a permit space entry must post an entry permit outside the permit space to document the employer's efforts to identify and control conditions in that permit space (see § 1926.1205(c)).

*29 CFR 1926.1206 (a)-(p) and 29 CFR 1926.1209(c) – Contents of the permit.*

Paragraphs 1926.1206(a)-(p) and 1926.1209(c) set forth the information which must be identified on the permit. Paragraph (a) requires the employer to identify the permit space workers are planning to enter. Paragraph (b) requires the employer to record the purpose of the entry. This information must be sufficiently specific, such as identifying specific tasks or jobs that employees are to perform within the space, to confirm that the employer considered performance of each specific construction activity in the hazard assessment of the PRCS. Paragraph (c) requires the employer to record the

date and authorized duration of the planned entry. Paragraph (d) and paragraph 1209(c) require the employer to record the identity of the authorized entrants so that the attendant is capable of safely overseeing the entry operations. Employers can meet this requirement by referring in the entry permit to a system such as a roster or tracking system used to keep track of who is currently in the PRCS. Under paragraph (e), when a permit program requires ventilation, OSHA requires employers to ensure that they have a monitoring system in place that will alert employees of increased atmospheric hazards in the event the ventilation system stops working. (See § 1926.1204(c)(5).) This provision requires the employer to record the means of detecting an increase in atmospheric-hazard levels if the ventilation system stops working. Paragraph (f) requires the employer to record the names of each attendant required to be stationed outside each permit space for the duration of entry operations. Paragraph (g) requires the employer to record the name of each employee currently serving as entry supervisor. Paragraph (h) requires the employer to record the hazards associated with the planned confined space entry operations. This list must include all hazards, regardless of whether the employer protects the authorized entrants from the hazards by isolation, control, or PPE. Paragraph (i) requires the employer to record the measures used to isolate or control the hazards prior to entry. Paragraph (j) requires the employer to specify the acceptable entry conditions. Paragraph (j) also requires employers, when applicable, to provide the ventilation malfunction determinations made in paragraph (c)(5) of § 1926.1204. Paragraph (k) requires the employer to record the dates, times, and results of the tests and monitoring performed prior to entry, and the names or initials of the individual/s who performed each test. Employers also must include the initial entry monitoring results on the entry permit; these results serve as a baseline for subsequent measurements. Paragraph (l) requires the employer to identify the rescue and emergency services required by the Standard, and the means by which these services will be summoned when needed. In some cases, an

employer must include pertinent information, such as communication equipment and emergency telephone numbers, on the permit to sufficiently identify the means by which the rescue services will be summoned. Paragraph (m) requires the employer to record all the methods of communication used by authorized entrants and attendants during entry operations. Paragraph (o) requires the employer to record any additional information needed to ensure safe confined space entry operations. Paragraph (p) requires the employer to record information about any other permits, such as for hot work, issued for work inside the confined space. If the employer identifies additional permits, these additional permits may be, but are not required to be, attached to the entry permit.

#### **29 CFR 1926.1207(d) – Training Records**

Under paragraph (d), employers must maintain training records. In addition, the employer record must contain the names of each employee trained, the trainer's name, and the dates of training, and the employer must make these records available for inspection by employees and their authorized representatives for the period of time that the employee is employed by the employer. This documentation can take any form that reasonably demonstrates the employee's completion of the training.

#### **29 CFR 1926.1208 – Duties of Authorized Entrants**

*29 CFR 1926.1208(c)) and 29 CFR 1926.1208(d) – Communicate with attendant.*

Paragraph (c) requires an employer to ensure that an authorized entrant communicates effectively with the attendant to facilitate the assessment of entrant status and timely evacuation as required by § 1209(f).

Paragraph (d) requires an employer to ensure that an authorized entrant alerts the attendant whenever one of the following circumstances in paragraphs 1926.1208(d)(1)-(2) arises: (1) There is a warning sign or symptom of exposure to a dangerous situation; or (2) the entrant recognizes a prohibited condition. In some instances, a properly trained authorized entrant may be able to recognize and report his/her own symptoms, such as

headache, dizziness, or slurred speech, and take the required action. In other cases, the authorized entrant, once the effects begin, may be unable to recognize or report them. In these latter cases, this provision requires that other, unimpaired, authorized entrants in the PRCs, who employers must properly train to recognize signs, symptoms, and other hazard exposure effects in other authorized entrants, report these effects to the attendant.

## **29 CFR 1926.1209 – Duties of Attendants**

### *29 CFR 1926.1209(e) – Communicate with authorized entrants.*

Paragraph (e) requires the attendant to communicate with authorized entrants as necessary to assess and keep track of the entrants' status and to notify entrants if evacuation under paragraph 1926.1209(f) of the Standard is necessary. Use of the word "assess" connotes an interactive duty in which the attendant may ask questions of the entrant, or ask the entrant to perform a task so that the attendant can evaluate the entrant's status.

### *29 CFR 1926.1209(f) – Order evacuation.*

Paragraph 1926.1209(f) requires the attendant to assess the activities and conditions inside and outside the space to determine if it is safe for entrants to stay in the space. OSHA requires the attendant to evacuate the permit space under any of the four "conditions" listed in paragraphs 1926.1209(f)(1) through (f)(4): (1) the attendant notices a prohibited condition, (2) the attendant identifies the behavioral effects of hazard exposure in an authorized entrant, (3) there is a condition outside the space that could endanger the authorized entrants, or (4) the attendant cannot effectively and safely perform the duties required under § 1926.1209. If the attendant notices a condition or activity outside the space not addressed by the entry coordination procedures, then the attendant or entry supervisor could, directly or through the controlling contractor, seek to correct the condition or stop the activity (such as described in the above example). If the

attendant cannot address the situation immediately, then the attendant must order the entrants to evacuate the permit space until the employer resolves the problem.

*29 CFR 1926.1209(g) – Summon rescue services.*

Paragraph (g) requires the attendant to call upon rescue and other emergency services as soon as he or she decides that authorized entrants may need assistance to escape from permit space hazards.

*29 CFR 1926.1209(h) – Entry employer duties.*

Paragraph (h) requires the attendant to take the actions specified in § 1926.1209(h)(1) through (h)(3) to prevent unauthorized persons from entering a permit space while entry is taking place.

*29 CFR 1926.1209(h)(1) – Warn non-authorized entrants to stay away.*

If someone other than an authorized entrant happens to approach the PRCS, paragraph (h)(1) specifies that the attendant must make that individual aware that he/she must stay away from the PRCS. Some construction sites may be accessible to the public, so the attendant also would be responsible for warning members of the public who may attempt to enter a permit space at the site.

*29 CFR 1926.1209(h)(2) – Advise non-authorized entrants to exit the PRCS immediately.*

Paragraph (h)(2) requires the attendant, should an unauthorized person enter the PRCS, to advise him/her to exit the space immediately.

*29 CFR 1926.1209(h)(3) – Notify the entry supervisor of unauthorized persons in the PRCS.*

Paragraph (h)(3) requires the attendant to notify the entry supervisor, along with the authorized entrants, of unauthorized persons who have entered the PRCS.

## **29 CFR 1926.1210 – Duties of Entry Supervisors**

Paragraph (b) is described above in the discussion of paragraph 1926.1205(a).

Paragraph (d) is described below in the discussion of paragraph (c).



## **29 CFR 1926.1211 – Rescue and Emergency Services**

*29 CFR 1926.1211(a)(1) and (a)(2) – Assess prospective rescue service’s response abilities.*

Paragraph (a)(1) requires an employer to assess a prospective rescue service’s ability to respond to a rescue summons in a timely manner. Paragraph (a)(2) requires an employer to assess a prospective rescue service’s ability to provide adequate and effective rescue services. In evaluating a prospective rescue provider's abilities, the employer also must consider the willingness of the service to become familiar with the particular hazards and circumstances faced during the permit space entries. Paragraphs (a)(4) and (a)(5) of § 1926.1211 require the employer to provide the designated rescuers with information about the confined spaces and access to those spaces to allow the rescuers to develop appropriate rescue plans and to perform rescue drills.

*29 CFR 1926.1211(a)(4) – Communicate with rescue services.*

Paragraph (a)(4) requires an employer to inform the designated rescue service of the known hazards associated with the permit space in the event that a rescue becomes necessary. To meet the requirements of this provision, the employer would have to inform the rescue service prior to issuing a permit that the employer selected the service to rescue the employees in the event of an emergency, and that the employer is relying on the rescue services to perform these rescues when necessary. Compliance with this paragraph, as well as with paragraphs (a)(1) and (a)(2) of this section, often requires the employer to provide this information to the rescue service immediately prior to each permit space entry. Similarly, if an entry involves hazards not usually encountered by the rescue service, or hazards or a configuration that would require the rescue service to use equipment that it does not always have available, then the employer would have to notify the rescue service of these hazards and conditions prior to beginning the entry operation.

*29 CFR 1926.1211(a)(5) – Develop a rescue service plan.*

Paragraph (a)(5) requires an employer to provide the designated rescue team or service with access to all permit spaces from which the rescue may need to perform a rescue so that the rescue team or service, whether in-house or third party, can develop appropriate rescue plans.

*29 CFR 1926.1210(d) and 29 CFR 1926.1211(c) – Confirm rescue service availability.*

If an entry employer determines that it will use non-entry rescue, it must confirm, prior to entry, that emergency assistance *will be available* in the event that non-entry rescue fails. Likewise, paragraph (d) requires the entry supervisor to verify that rescue services are available, and that the means for obtaining such services are operable.

*29 CFR 1926.1211(d) – Provide Safety Data Sheet (SDS) to treating medical facilities.*

Paragraph (d) requires an employer to provide relevant information about a hazardous substance to a medical facility treating an entrant exposed to the hazardous substance if the substance is one for which the employer must keep a SDS or other similar information at the worksite.

### **29 CFR 1926.1212 – Employee Participation**

*29 CFR 1926.1212(a) – Consult with employees/authorized representatives on development and implementation of a written program.*

Paragraph (a) requires employers to consult with affected employees and their authorized representatives in the development and implementation of the written permit space program required by § 1926.1203.

*29 CFR 1926.1212(b) – Employee access.*

Paragraph (b) requires that affected employees and their authorized representatives have access to all information developed under this standard. Other sections of this standard already specifically require that employers make information available to employees and their representatives. These provisions include §§ 1926.1203(d) (written program); 1926.1203(e)(1)(v) and (e)(2)(ix) (alternate procedure

certification); 1926.1203(g) (reclassification certification); 1926.1204(e)(6) (monitoring and testing results); 1926.1205(c) (completed permit); and 1926.1207(d) (training records).

## **29 CFR 1926.1213 –Disclosure**

Paragraph 1926.1213 requires an employer, who must retain documentation under the Standard, to make this information available to the Secretary of Labor, or a designee, upon request. The request from the Secretary or the Secretary's designee (for example, OSHA) may be either oral or written.

## **II. Special Issues for Comment**

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply—for example, by using automated or other technological information collection and transmission techniques.

## **III. Proposed Actions**

The agency requests approval for an adjustment increase of 47,047.02 burden hours (from 660,103 to 707,150.02) to adjust for an increase in the estimated number of affected employers. For the same reason, the agency also requests approval for an increase of \$82,670.19 in capital costs (from \$1,017,859 to \$1,100,529.19) for signs, tags, and gas monitors.

*Type of Review:* Extension of a currently approved collection.

*Title:* Confined Spaces in Construction (29 CFR part 1926 subpart AA).

*OMB Control Number:* 1218-0258.

*Affected Public:* Business or other for-profits.

*Number of Respondents:* 32,510.

*Frequency:* Initially; Annually; On occasion.

*Average Time Per Response:* Varies.

*Estimated Number of Responses:* 4,426,655.

*Estimated Total Burden Hours:* 707,150.02.

*Estimated Cost (Operation and Maintenance):* \$1,100,529.19.

#### **IV. Public Participation — Submission of Comments on this Notice and Internet**

##### **Access to Comments and Submissions**

You may submit comments in response to this document as follows: (1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. **Please note:** While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID-19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA-2017-0014). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled "**ADDRESSES**"). The

additional materials must clearly identify electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office at (202) 693-2350, (TTY (877) 889-5627) for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

## **V. Authority and Signature**

Amanda L. Edens, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on February 19, 2021.

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**Amanda L. Edens,**  
*Deputy Assistant Secretary of Labor for Occupational Safety and Health.*